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IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

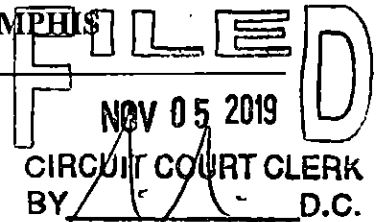
JANE DOE, an individual,

Plaintiff,

vs.

SIGMA ALPHA EPSILON FRATERNITY, an
Illinois not-for-profit corporation; SIGMA
ALPHA EPSILON, TENNESSEE ZETA CHAPTER;
RHODES COLLEGE; JOHN SMITH;
and DOES 1 to 3, inclusive,

Defendants.



No. CT-4845-19
Div. VII

**PLAINTIFF'S COMPLAINT FOR DAMAGES FOR NEGLIGENCE, ASSAULT,
BATTERY, AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

Plaintiff JANE DOE hereby alleges as follows:

INTRODUCTION

1. This Complaint is brought by a former female student at Rhodes College ("Rhodes") against SIGMA ALPHA EPSILON FRATERNITY ("SAE NATIONAL"), SIGMA ALPHA EPSILON'S TENNESSEE ZETA CHAPTER ("SAE ZETA CHAPTER"), RHODES COLLEGE (collectively "RHODES"), and JOHN SMITH based on the sexual assault perpetrated by JOHN SMITH ("SMITH", who was or had been a RHODES student and was a member of SAE ZETA CHAPTER), and one or more additional members or pledges of SAE ZETA CHAPTER on February 14, 2019. SAE NATIONAL turned a blind eye to SAE ZETA CHAPTER's extensive history of alcohol and drug abuse and sexual assault; failed to adhere to their own local and national policies governing alcohol consumption, sexual assault, and risk management; and failed to institute precautionary measures to protect female invitees from

becoming incapacitated at a SAE ZETA CHAPTER social event and subsequently being sexually assaulted at the SAE ZETA CHAPTER house. Upon information and belief, RHODES was aware of past instances of alcohol and drug consumption and abuse at the SAE ZETA CHAPTER house and did nothing to stop said conduct even though it violated RHODES' rules and policies. Upon information and belief RHODES had been put on notice of predatory sexual practices by SMITH yet allowed him to remain a student

2. No security, bartender, other form of sober, responsible management was present at SAE ZETA CHAPTER during the Valentine's Day Formal ("Formal") to, *inter alia*: reasonably control the SAE ZETA CHAPTER Formal; protect Plaintiff; prohibit individuals who were not students of Rhodes from attending the Formal or entering its property; effectuate risk management protocols; regulate alcohol consumption and prevent underage drinking; enforce policies prohibiting drugs and drug usage on its property; enforce sexual abuse prevention policies; prevent illegal conduct within the SAE ZETA CHAPTER house; and intervene when Plaintiff was being sexually assaulted inside the SAE ZETA CHAPTER house.

3. The SAE ZETA CHAPTER at Rhodes has a secluded area in its unfinished attic that can only be accessed by an aluminum ladder. This area is commonly used by SAE ZETA CHAPTER members as an area to consume illegal drugs. SAE NATIONAL and RHODES knew or should have known that SAE ZETA CHAPTER used this unfinished area of the SAE ZETA CHAPTER house to engage in illegal activities.

VENUE AND PARTIES

4. Plaintiff JANE DOE ("PLAINTIFF"), currently a resident of Texas, was at all times relevant hereto a student of Rhodes and a resident of the Memphis, Shelby County, Tennessee and an individual over the age of 18. This action is brought anonymously for the following reasons: PLAINTIFF seeks to preserve her privacy in this sensitive and highly personal matter; she wishes to avoid further embarrassment and psychological damage, as this case concerns sexual assault, a matter of utmost intimacy; identification of Plaintiff poses a high risk of mental harm; and there is no risk of prejudice to Defendants from Plaintiff proceeding anonymously, because Defendants and counsel are fully aware of the identity of the Plaintiff.

5. PLAINTIFF is informed and believes, and thereupon alleges that Defendant SMITH, also a pseudonym, was at the time of his sexual assault on PLAINTIFF, a resident of Memphis, Shelby County, Tennessee and an individual over the age of 18. In addition, he was a member of SAE ZETA CHAPTER and a student of RHODES.

6. Defendant SAE ZETA CHAPTER is a fraternity at Rhodes and is a local chapter of SAE NATIONAL. The SAE ZETA CHAPTER House, where SAE ZETA CHAPTER members hold functions, is located on the campus of RHODES on property owned by RHODES in Memphis, Tennessee. PLAINTIFF is informed and believes, and thereon alleges, that SAE ZETA CHAPTER owns, manages, operates, and maintains the SAE ZETA CHAPTER House.

7. Defendant SAE NATIONAL is the controlling body of the national SIGMA ALPHA EPSILON FRATERNITY and owns, controls, operates, and provides policies and rules for SAE ZETA CHAPTER at Rhodes. SAE ZETA CHAPTER is an agent of SAE NATIONAL; SAE NATIONAL regulates, controls, and inspects what SAE ZETA CHAPTER can and cannot do. SAE NATIONAL is also able to disband SAE ZETA CHAPTER if it fails to adhere to SAE

NATIONAL regulations. Plaintiff is informed and believes, and thereon alleges, that SAE NATIONAL is, and at all times relevant hereto, an Illinois non-profit corporation.

8. PLAINTIFF is unaware of the true names and capacities of Defendants DOES 1 through 3 ("DOES" and/or "DEFENDANT DOES") inclusive, and therefore sues said Does by such fictitious names. PLAINTIFF will seek leave of Court to amend this Complaint to show the true names and capacities of such DOES when their names have been ascertained. PLAINTIFF is informed, believes, and thereon alleges that each of the fictitiously named Defendants are responsible to PLAINTIFF for the injuries suffered and alleged herein, or are subject to the jurisdiction of the Court as a necessary party for the relief herein requested.

9. Venue is properly laid in this Court because the claims and injuries occurred in Memphis, Shelby County, Tennessee.

GENERAL ALLEGATIONS

SAE NATIONAL has a Dark History of Alcohol Abuse, Drug Abuse, Sexual Assault, and Disregard for Governing Rules and Law

10. SAE NATIONAL is no stranger to being in the headlines for violations of fraternity rules. It has repeatedly sanctioned and/or closed local chapters for violations of the law and are continuously being accused of sexual assault and rape. Such unlawful conduct is a pattern for SAE NATIONAL and its collective local chapters.

11. SAE NATIONAL has a particularly grave history of alcohol and drug abuse and sexual assault that seemingly permeates throughout the entire organization. It has been named the "Deadliest Fraternity in America." On college campuses throughout the country, SAE is often said to stand for "Sexual Assault Expected".

12. RHODES is well aware of the incidence of alcohol and drug abuse and sexual assault at RHODES' fraternities, and many of the reasonable precautions it can enact to curb these problems. Despite being aware of the widespread incidence of alcohol and drug abuse and sexual assault at RHODES fraternities, and despite being aware of and able to implement reasonable precautions to prevent the same, RHODES largely does nothing to mitigate these hazards.

Alcohol-Drug Fueled Sexual Assault Is Easily Foreseeable to Fraternity Defendants

13. Despite having histories steeped in alcohol and drug abuse and cultures promoting sexual assault, SAE NATIONAL and SAE ZETA CHAPTER essentially do nothing to mitigate the risks of alcohol and drug abuse and sexual assault.

14. Despite being aware of the risks propagated by their cultures, SAE NATIONAL and SAE ZETA CHAPTER do little-to-nothing to protect their members and guests from harm.

15. SAE NATIONAL and SAE ZETA CHAPTER maintain a core principle of self-governance, and their Constitutions enable them to regulate and administer the activities of their chapters through an Executive Council and various administrative and field officers.

16. Despite demanding self-governance, SAE NATIONAL and SAE ZETA CHAPTER fail to adequately and reasonably train themselves and abide by such responsibilities, particularly with respect to safety and risk management issues involving fraternity events, events inside the fraternity house, security, sexual assault prevention and the use and misuse of alcohol and drugs.

17. Statistics, insurance claims analyses, studies and reports, and widely known incidents of catastrophic injury, sexual assault, and death have for decades demonstrated the

foreseeable risk of dangerous injury and death from poorly or wholly unsupervised fraternity events and fundamentally flawed risk management policies that rely upon self-government.

18. All Defendants knew, or in the exercise of reasonable care should have known, of such widely publicized and available information, studies and reports.

19. Notwithstanding such knowledge, information, and direct experience with injuries and death caused by its failed risk management policies, SAE NATIONAL has repeatedly failed to undertake actions necessary to make its operations and chapters, nationwide and at SAE ZETA CHAPTER, safe for invitees and guests such as PLAINTIFF.

20. PLAINTIFF is informed and believes, and thereupon alleges, that all Defendants knew, or reasonably should have known, of the likelihood of party attendees drinking and/or consuming drugs at the Formal and correspondingly implemented precautionary measures to prevent attendees from becoming incapacitated due to excessive alcohol consumption and/or the use of illegal drugs.

21. PLAINTIFF was a frequent invitee of the SAE ZETA CHAPTER. SAE ZETA CHAPTER had a special relationship with Plaintiff wherein they had a duty to take reasonable protective measures to ensure her safety and otherwise protect her from reasonable foreseeable criminal conduct, to warn her as to such reasonable foreseeable criminal conduct on its premises and/or to control the reasonably foreseeable wrongful acts of third parties/guests.

22. A special relationship between sorority guests and fraternities exists when fraternities invite sorority sisters to their houses or social functions. The special relationship between sorority-invitees and fraternities entails a duty to take reasonable protective measures to ensure their safety against violent attacks and otherwise protect them from reasonable foreseeable criminal conduct. This includes warning sorority-invitees like Plaintiff as to such

reasonably foreseeable criminal conduct on its premises and/or to control the reasonably foreseeable wrongful acts of third parties/other students.

PLAINTIFF Attends SAE ZETA CHAPTER Formal During Which Alcohol and Drugs were Served to Students

23. On the night of February 14, 2019, Plaintiff was invited to and attended a Formal at the SAE ZETA CHAPTER house. Upon information and belief, the party was scheduled and authorized by the officers, members, and social chairman of SAE ZETA CHAPTER, and it was specifically planned so that copious amounts of alcohol and illegal drugs would be made available to members and guests.

24. The party at SAE ZETA CHAPTER was held in violation of the law and its own meaningless rules and regulations. SAE ZETA CHAPTER made available to anyone and everyone who came to the party alcoholic beverages and illegal drugs. In violation of SAE ZETA CHAPTER's own rules, the students were encouraged to drink and use illegal drugs. Furthermore, despite students already appearing intoxicated, SAE ZETA CHAPTER continued to serve them alcoholic beverages and drugs.

25. SMITH, PLAINTIFF's date to the Formal, encouraged PLAINTIFF to drink during the party and made her multiple Vodka drinks. He also encouraged her to ingest illegal drugs. SMITH took PLAINTIFF up an aluminum ladder to the unfinished attic area where others were doing drugs and drinking. At some point in the evening and while in the attic area, PLAINTIFF became incapacitated from the drinks and drugs.

26. PLAINTIFF is informed and believes, and thereupon alleges, that neither SAE ZETA CHAPTER officers, its members, or its social chairman made any plans or provisions for the presence of reasonable security or supervision for the party. SAE ZETA CHAPTER was

negligent in planning this party insofar as it involved unfettered consumption of alcohol and drugs by attendees with no responsible person to monitor consumption and/or assure the safety of the female guests.

27. The SAE ZETA CHAPTER party was held in violation of RHODES' regulations. RHODES was negligent in permitting the SAE ZETA CHAPTER party to occur, including approving the event and failing to subsequently patrol it to ensure SAE ZETA CHAPTER's compliance with RHODES' alcohol, drug and risk management protocols.

28. PLAINTIFF is informed and believes, and thereupon alleges, the officers of SAE ZETA CHAPTER, pursuant to their governing documents, mandated that the designated officers of SAE ZETA CHAPTER ensure strict compliance with risk management, alcohol, drug and sexual assault policies, procedures, guidelines, and codes at all times including but not limited to their enforcement at social events.

SMITH Isolates PLAINTIFF in the Unfinished Attic of the SAE ZETA CHAPTER House

29. Around 10:15 p.m., PLAINTIFF was led by SMITH up the aluminum ladder into the unfinished attic of the SAE ZETA CHAPTER house. PLAINTIFF became ill and essentially became incapacitated. In fact, her roommate was called to come and get her because she was so incapacitated. It was during this period of incapacitation that SMITH and others sexually assaulted PLAINTIFF. Because of her incapacitation, PLAINTIFF had no way to resist the sexual assaults from these individuals and certainly could not consent to the sexual assaults.

30. After she was sexually assaulted, PLAINTIFF felt her body bruised and sore because of the assault on her body by SMITH and others. She experienced excruciating physical pain which continued for days after she was assaulted. Her body was visibly sore and bruised for several days after the sexual assault.

31. Neither SAE ZETA CHAPTER nor SAE NATIONAL reported this matter to RHODES' Title IX office, as they are required to do pursuant to SAE NATIONAL and RHODES' policies.

PLAINTIFF'S Emotional Distress

32. Since this sexual assault on Valentine's Day of 2019, PLAINTIFF has become anxious and depressed, which led to her seeing a therapist who diagnosed her with Post Traumatic Stress Disorder. PLAINTIFF continues to have "flashbacks" of the sexual assault.

FIRST CAUSE OF ACTION

NEGLIGENCE

(Against all DEFENDANTS)

33. PLAINTIFF re-alleges and incorporates herein by reference, as though set forth in full, each and every allegation contained in Paragraphs 1 through 32, inclusive.

34. SAE ZETA CHAPTER exists as a chapter and agent of SAE NATIONAL, chartered and allowed to exist by SAE NATIONAL. SAE NATIONAL retains significant control and supervision over the SAE ZETA CHAPTER through its laws, rules, policies and procedures, chapter operations guide, and use of staff and alumni advisors who should regularly check and report on the SAE ZETA CHAPTER's activities and as to whether it is following SAE NATIONAL'S mandates.

35. SAE NATIONAL, SAE ZETA CHAPTER and RHODES assumed obligations of providing security for fraternity events and fraternity premises, enforcing the terms and conditions of their Membership Agreement, their own risk management policies and procedures, and their chapter operations guide, and managing fraternity events so as to comply with the laws and regulations of RHODES.

36. SAE NATIONAL and SAE ZETA CHAPTER owed statutory, common law, and assumed duties to plan lawful fraternity events, provide reasonably safe premises for such events, and to prevent/protect PLAINTIFF from being sexually assaulted in the unfinished attic of the SAE ZETA CHAPTER house during a fraternity event.

37. SAE NATIONAL and SAE ZETA CHAPTER owed a duty of care to PLAINTIFF based on a special relationship theory wherein they accept and recruit members, the members pay dues in exchange for membership and social activities, and the members are bound by the rules and policies of SAE NATIONAL and SAE ZETA CHAPTER. The establishment and sponsorship of the fraternity by SAE NATIONAL and SAE ZETA CHAPTER thereby creates a duty to exercise reasonable care regarding the risk of harm that any conduct by the fraternity or its members creates.

38. SAE ZETA CHAPTER exercised control over the premises upon which PLAINTIFF and SMITH were served alcohol and drugs and PLAINTIFF became intoxicated and incapacitated.

39. SAE NATIONAL and SAE ZETA CHAPTER owed a duty of care to PLAINTIFF and owed PLAINTIFF a duty to keep her safe and act with reasonable care toward her while she was on DEFENDANTS' premises. SAE NATIONAL and SAE ZETA CHAPTER were under a duty to exercise reasonable care regarding the risk of harm that the conduct creates in the members it recruits and the engagement of social activities associated with the fraternity.

40. RHODES owed a duty of care to PLAINTIFF and owed PLAINTIFF a duty to keep her safe and act with reasonable care toward her while she was on RHODES' campus. RHODES was under a duty to exercise reasonable care regarding their oversight of activities on RHODES' campus, including fraternity activities, and breached that duty by allowing SMITH to

remain on campus after RHODES knew or should have known that SMITH posed a risk of harm to students, including PLAINTIFF. In addition, RHODES either knew or should have known of the long-term use and abuse of alcohol and illegal drugs at SAE ZETA CHAPTER functions but did nothing to prohibit the use and abuse of alcohol or illegal drugs thereby putting students, including PLAINTIFF, at risk of sexual assault. Additionally, RHODES knew or should have known that the SAE ZETA CHAPTER utilized an unfinished portion of its attic for the use of illegal drugs.

41. DEFENDANTS breached the duty of care by acting with reckless disregard for PLAINTIFF'S rights and well-being, causing her harm through non-consensual sexual assault.

42. SAE NATIONAL and SAE ZETA CHAPTER breached their duties by, among other things:

- a. relying on underage, untrained members to manage the SAE ZETA CHAPTER, its activities, and the enforcement of risk management policies, the Code of Non-Academic Conduct, at the SAE ZETA CHAPTER house;
- b. failing to adequately train the SAE ZETA CHAPTER and its members and officers on risk management, alcohol and illegal drug policies, crisis management policies, sexual assault prevention, the Code of Non-Academic Conduct, chapter operations guide, and other management policies and procedures;
- c. failing to provide effective supervision and control over SAE ZETA CHAPTER members and guests, and activities authorized, directed, and participated in by those members and guests;

- d. failing to implement reasonable measures to enforce risk management policies to prevent sexual abuse and rape during fraternity activities at the SAE ZETA CHAPTER house;
- e. failing to implement reasonable measures to enforce state laws, local ordinances, the Code of Non-Academic Conduct, and fraternity policies to make the SAE ZETA CHAPTER house and its members' conduct safe for guests;
- f. failing to implement reasonable measures to stop dangerous and/or unlawful activities which they knew, or should have known, were occurring within the SAE ZETA CHAPTER house;
- g. failing to implement and enforce reasonable safety/security measures when, by their own conduct, they created or increased the foreseeable risk that a guest such as PLAINTIFF might be harmed by the conduct of a SAE ZETA CHAPTER member and/or an individual who had been placed on administrative leave from RHODES, including harm caused by the foreseeable criminal sexual conduct of DEFENDANT SMITH and others;
- h. failing to discipline SAE ZETA CHAPTER members for engaging in activities that created the dangerous conditions at the SAE ZETA CHAPTER house, implicitly allowing those conditions to persist;
- i. failing to change fraternity policies regarding student safety, including safe management policies and practices that were, at the time of the allegations set forth in this complaint, under the control of undergraduate students who lacked experience, who were unaware of the inherent,

substantial risk of injury and death from such inadequate policies, and who did not understand the consequences of their failure to implement safer policies and practices;

- j. failing to support proper risk management, crisis management, sexual assault prevention and education, and house management programs;
- k. hosting a social event while failing to provide appropriate monitors or security throughout the duration of the event to monitor the activities of both members and guests with the objective of promoting compliance with fraternity rules and policies, local ordinances, Tennessee law, RHODES' Code of Conduct, and general safety; and
- l. other negligent acts and omissions.

43. As a direct and proximate result of DEFENDANTS' conduct, PLAINTIFF has suffered injury, damage, embarrassment, depression, anxiety, sleeplessness and humiliation all of which was caused by DEFENDANTS' conduct.

44. PLAINTIFF'S damages are in amounts according to proof at trial.

SECOND CAUSE OF ACTION

ASSAULT

(Against SMITH and DOES 1 to 3)

45. PLAINTIFF re-alleges and incorporates herein by reference, as though set forth in full, each and every allegation contained in Paragraphs 1 through 44, inclusive.

46. DEFENDANT SMITH acted with intent to cause harmful and/or offensive contact with PLAINTIFF by having non-consensual sexual intercourse with PLAINTIFF while she was incapacitated and could not consent to DEFENDANT'S actions.

47. PLAINTIFF did not consent to DEFENDANT'S actions.

48. As a direct and proximate result of DEFENDANT SMITH'S actions, PLAINTIFF suffered injury, damage, and harm to her physical and emotional wellbeing.

49. The acts and conduct of DEFENDANT SMITH was malicious, intentional and reckless and conducted with reckless disregard of PLAINTIFF'S rights and safety. As a result, PLAINTIFF is entitled to punitive damages. PLAINTIFF alleges that the conduct of DEFENDANT SMITH warrants the removal of the statutory limitation as to the amount of punitive damages. Plaintiff further alleges that any cap on her damages, whether compensatory or punitive, violates the Tennessee Constitution and abridges the prerogative of the jury.

50. The total amount of damages to PLAINTIFF is subject to proof at trial.

THIRD CAUSE OF ACTION

BATTERY

(Against SMITH and DOES 1 to 3)

51. PLAINTIFF re-alleges and incorporates herein by reference, as though set forth in full, each and every allegation contained in Paragraphs 1 through 50, inclusive.

52. DEFENDANT SMITH acted with intent to cause harmful and/or offensive contact with PLAINTIFF and DEFENDANT SMITH forcefully engaged in non-consensual sexual intercourse with PLAINTIFF while she was incapacitated causing her to suffer physical and emotional damages.

53. DEFENDANT SMITH'S actions were done without consent of PLAINTIFF. PLAINTIFF did not and could not consent to the sexual intercourse because she was intoxicated.

54. As a direct and proximate result of DEFENDANT'S non-consensual contact with PLAINTIFF, PLAINTIFF has suffered, and will continue to suffer, emotional and physical damages, including embarrassment, depression, anxiety and sleeplessness.

55. As a result of DEFENDANT'S malicious, intentional and reckless acts, PLAINTIFF is entitled to an award of punitive damages. Plaintiff alleges that the conduct of DEFENDANT SMITH warrants the removal of the statutory limitation as to the amount of punitive damages. Plaintiff further alleges that any cap on her damages, whether compensatory or punitive, violates the Tennessee Constitution and abridges the prerogative of the jury.

56. The total amount of damages is subject to proof at trial.

FOURTH CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(Against DEFENDANTS SMITH and DOES 1 to 3)

57. PLAINTIFF re-alleges and incorporates herein by reference, as though set forth in full, each and every allegation contained in Paragraphs 1 through 56, inclusive.

58. DEFENDANT SMITH acted intentionally and with reckless disregard for the likelihood of causing PLAINTIFF severe emotional distress as a result of forcing her, without her consent, to the sexual intercourse while she was intoxicated.

59. DEFENDANT SMITH knew or should have known that PLAINTIFF could not consent and did not consent to the sexual intercourse.

60. DEFENDANT SMITH acted in an extreme and outrageous manner which falls beyond the bounds of decency that any person should reasonably endure by forcing sexual intercourse on PLAINTIFF while she was intoxicated and unable to consent.

61. DEFENDANT SMITH'S extreme and outrageous conduct was intentional, oppressive, and malicious and done to cause PLAINTIFF to suffer severe emotional and physical distress.

62. As a proximate cause of DEFENDANT SMITH'S extreme and outrageous conduct, PLAINTIFF has suffered and will continue to suffer emotional and physical distress.

63. DEFENDANT SMITH acted with complete disregard of PLAINTIFF'S rights and safety and such malicious, intentional, and oppressive conduct justify an award of punitive damages in an amount according to proof at trial.

FIFTH CAUSE OF ACTION

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

(Against All Defendants)

64. PLAINTIFF re-alleges and incorporates herein by reference, as though set forth in full, each and every allegation contained in Paragraphs 1 through 63, inclusive.

65. DEFENDANTS' negligent acts contained herein caused PLAINTIFF severe emotional distress.

66. As a proximate cause of DEFENDANTS' negligent conduct, PLAINTIFF has suffered and will continue to suffer emotional and physical distress.

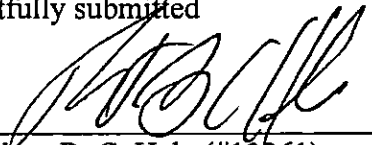
PRAYER

WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS, and each of them, as follows:

1. Compensatory damages in an amount according to proof at trial;
2. Punitive damages in an amount according to proof at trial;

- and
3. For an award of any and all damages authorized by law according to proof at trial;
 4. Any other relief the Court may deem appropriate.

Respectfully submitted

By: 

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